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ORIGINAL TO FOLLOW IN MAIL: ☐ Yes ☒ No

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MESSAGE Please find attached the Interview Outline.  
U.S. 10/758,429  
Atty Docket 62941.002006 (previously 64243.000006)

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT OPERATOR AT 804 • 788 • 8583.

OPERATOR Lorrie K. Wesolosky  
DATE: November 17, 2005  
TIME:  
CLIENT/MATTER NAME: Merrill Brooks SMITH, et al  
U.S. SN 10/758,429  
CLIENT/MATTER NO.: 62941.002006 (formerly 64243.000006)

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CONFIDENTIAL -- ATTORNEY NOTES

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CENTRAL FAX CENTERINTERVIEW OUTLINE FOR 10/758,429

NOVEMBER 17, 2005

Atty. Docket No. 62941.002006

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## I. NATURE OF THE INVENTION:

1. Title: "SYSTEM AND METHOD FOR CONDUCTING A REFUND TRANSACTION FOR A PIN-ACTIVATED ACCOUNT"
2. Field of the Invention: "More particularly, the invention relates to returning a PIN-enabled stored value account to a merchant and canceling the purchase of a PIN-enabled stored value account." (Application, ¶ 007).

## II. CLAIM 1

1. A method of conducting a PIN-enabled stored value account refund transaction, comprising:  
receiving a refund request for a stored value account having an associated value purchased in a previous transaction, wherein the request comprises a PIN associated with the stored value account, and wherein the PIN is operative to redeem the associated value;  
determining whether any of the associated value has been previously redeemed;  
and  
providing a response to the refund request.

III. 35 U.S.C. 102(e) rejection: "The structure of Gould et al is CAPABLE of performing all the method steps as set forth in the claims." (Office Action, ¶ 003, emphasis added).

## IV. ARGUMENTS

## A. A new use of an old structure is patentable.

## 1. 35 U.S.C. 100(b):

The term "process" means process, art, or method, and INCLUDES A NEW USE OF A KNOWN PROCESS, machine, manufacture, composition of matter, or material." (Emphasis added.)

2. *E.g., Ex Parte Muller*, 81 U.S.P.Q. 261, 1947 WL 3739 (Pat. Tr. Ofc. Bd.App. 1947) (The new method of using DDT as an insecticide was patentable though DDT, the substance, and the method of diluting it with inert substance was well known.).

- B. Rejections under 35 U.S.C. §102 require that "to anticipate a claim, the reference must teach every element of the claim." MPEP 2131
- C. The Gould reference does not disclose or suggest the specific method elements of claim 1:
- receiving a refund request
  - determining whether any of the associated value has been previously redeemed
  - providing a response to the refund request

Interview Participants:

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Phil Chakiris, representative of Assignee (expected to attend)